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Fifty-sixth session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in the Sudan

Note by the secretariat

Introduction

1. For compelling personal reasons the Special Rapporteur on the situation of human rights in the Sudan is unable to present his report to the Commission on Human Rights at its fifty-sixth session. The Special Rapporteur has reviewed the situation of human rights in the Sudan, has undertaken a mission to the country and has prepared a draft report but, owing to a family emergency, has not been able to finalize the report in time for its submission to the Commission. The complete report will be submitted to the General Assembly at its fifty-fifth session.

2. The following summary of the draft report of the Special Rapporteur is submitted to the Commission with the permission of the Special Rapporteur.

I. VISIT TO THE COUNTRY

3. On 23 September 1999, the Permanent Mission of the Republic of the Sudan addressed a letter to the Special Rapporteur inviting him to visit the country and expressing the firm commitment of the Government of the Sudan to provide him with constructive assistance and cooperation during the visit. In his reply of 27 December 1999, the Special Rapporteur confirmed his intention to visit the country and proposed the following objectives for the

mission: (i) to examine with the authorities the new Constitution and any new legislation adopted; (ii) to look into the implications of the recent declaration of a state of emergency; (iii) to assess the progress made by the recently established Committee for the Eradication of Abductions of Women and Children (CEAWC).

4. The visit, initially scheduled for November 1999, had to be postponed for reasons not imputable either to the Special Rapporteur or to the Government of the Sudan. The visit eventually took place from 19 February to 3 March 2000. The Special Rapporteur concluded his mission with a brief visit to Kenya.

5. The Special Rapporteur acknowledges the very good cooperation he received from the Government of the Sudan throughout his visit. He particularly thanks the Rapporteur of the Advisory Council for Human Rights, Mr. Ahmed el-Mufti, who provided decisive support in organizing the programme, as well as the Office of the Resident Coordinator in Khartoum, UNICEF and Operation Lifeline Sudan (OLS) in both the Sudan and Kenya.

6. However, the Special Rapporteur deeply regrets that, owing to a total flight ban imposed by the Government for undisclosed reasons, he was prevented from travelling from Lokichoggio (Kenya) to the territory controlled by the Sudan People's Liberation Army (SPLA) in order to familiarize himself with the plight of civilians fleeing violence in the oil exploration zones.

II. POLITICAL AND SOCIAL CONTEXT IN WHICH THE MISSION TOOK PLACE

7. On 12 December 1999, President Omar Al-Bashir declared a state of emergency throughout the country, for a period of three months, under articles 43 (d) and 131 of the Constitution. Emergency Order No. 1 suspended articles 56, 57, 59 and 60 (2) and (3) of the Constitution. President Al-Bashir also issued a Republican Decree on the expiry of the National Assembly term as of Monday, 13 December 1999, in accordance with articles 43, 39 and 72 of the Constitution. The decision to declare a state of emergency was challenged in the Constitutional Court, which dismissed the challenge on 8 March 2000.

8. During the past year, the Government of the Sudan has undertaken efforts to continue to improve relations with neighbouring countries, as well as other members of the international community.

III. CONCLUSIONS AND RECOMMENDATIONS

9. As already indicated in his previous report to the Commission on Human Rights, the Special Rapporteur wishes to emphasize the very high importance he attaches to the stated will of the Government to bring early peace to the country and to promote transition to democracy. These two objectives are inextricably linked to the promotion and protection of human rights and fundamental freedoms. In his view, the peace process currently under way should therefore include a human rights component, in order to reflect the aspirations of all segments of Sudanese society. The Special Rapporteur notes that the aerial bombing of a school at Kaouda in the Nuba Mountains, on 8 February 2000, which killed a number of children, constituted yet another tragic reminder of the necessity to link human rights concerns with the efforts for peace.

A. Constitution and transition to democracy

10. During his visit to Khartoum the Special Rapporteur was pleased to observe signs of greater political dialogue and the enjoyment to a broader degree of the freedoms of expression, press and assembly. According to many observers, this is a consequence of changes in the balance of power within the official party. The Special Rapporteur trusts that this encouraging development may have a favourable impact on the transition to a multi-party society and contribute to the consolidation and enjoyment of human rights.

11. In spite of this new climate, the Special Rapporteur continues to be seriously concerned about the continuation of patterns adversely affecting human rights.

(a) The official party continues to maintain unrelenting control over all segments of society and is strongly reluctant to open its institutions to a greater degree of democratic participation, as evidenced by the curtailment of the rights of opposition students;

(b) The independence of the judiciary is often undermined;

(c) There is no system of control of executive actions and activities;

(d) Last, but not least, the fundamental institutions and legal framework remain, for the time being, basically unchanged, as does the role of the security organs. In this connection, the Special Rapporteur expressed to the authorities his serious concern with regard to the New Security Forces Act, which empowers security organs to infringe international standards on issues relating to freedom and fair trial.

12. The Special Rapporteur strongly believes that it is imperative to seize the opportunities offered by the new situation in order to establish the foundations for a sustainable democracy based on multi-party participation. In this connection, he emphasizes the need for normalization and transition from the emergency regime to a situation where the rule of law clearly prevails. The independence of the judiciary, control of the security organs and a system of checks and balances also need to be ensured. Also, he wishes to reiterate the recommendation contained in his interim report in this respect, namely that the previous emergency legislation should be revised in accordance with the stated will of the Government and in full conformity with international human rights standards (A/54/467, paras. 146 and 150).

13. The Special Rapporteur has continued to receive - although in declining numbers - allegations of cases of torture, arbitrary detention and other abuses of human rights. The Special Rapporteur is particularly concerned at reports of the suspension or dismissal of students from universities and deems that students, regardless of their political affiliation, should be allowed to participate in democratic student unions that represent them.

14. In connection with the frequent allegations of torture brought to his attention during his mandate, the Special Rapporteur is very concerned about the lack of official action to investigate and sanction reported abuses. He is also concerned about the lack of action to implement

measures aimed at the prevention of torture, as recommended in paragraphs 176 and 177 of his previous report to the Commission (E/CN 4/1999/38/Add 1). Consequently, such recommendations remain valid.

B Respect of human rights and international humanitarian law during the conflict

15. The Special Rapporteur is of the view that the prolonged war in the Sudan mainly affects the civilian population, whose plight should be regarded as one of the most important human rights concerns facing the international community. Although of rather low intensity, the war has a disproportionately high impact on the civilian population, in particular women and children, who become hostages or targets of the belligerents. Consistent and undisputed evidence indicates that the war is being conducted in disregard of human rights and humanitarian law principles, and that violations are perpetrated by all parties, albeit with varying degrees of responsibility, the greater portion being attributable to the Government.

16. The Special Rapporteur was shocked to gather more information about the disregard of international humanitarian standards by both parties, a situation which inflicts unlimited suffering and injustice on the civilian population in the war zones and which constitutes by far the most serious threat to human rights in the Sudan.

17. The Special Rapporteur has found that the Government is continuing to practise indiscriminate bombing, which appears to have intensified during recent weeks, with a heavy toll of civilians. In this connection, the Special Rapporteur strongly condemns the bombing of the school at Kaouda in the Nuba Mountains, as well as the heinous practice of bombing civilians as they gather to collect humanitarian food aid, mainly in the Upper Nile zone.

18. He also regrets that the Government has forced civilians of ethnic Nuer populations to relocate, with the purpose of ensuring military control of oil industry operations in Upper Nile. According to consistent reports, this practice is allegedly followed by the settlement of ethnic Baggaara groups.

19. The Special Rapporteur expresses concern at the use of oil industry airstrips for military purposes and at the practice of seriously hindering humanitarian assistance, particularly in western Upper Nile, mainly by restricting access by air to many humanitarian distribution sites, as well as by imposing flight bans on certain occasions.

20. The Special Rapporteur regrets that the Government is not taking measures to prevent or sanction the raids against civilian populations, particularly in Bahr el-Ghazal, that, according to reports, continue to take place, often resulting in abductions and subsequent forced labour of women and children. In this connection, the Special Rapporteur had expectations that with the creation of CEAWC there would be no recurrence of raids against the civilian population. However, he learnt with dismay that on 21 February 2000 new raids, allegedly by murahalleen, took place in eastern Aweil and Twic counties, northern Bahr el-Ghazal, with a toll of 16 civilians killed and, according to information received, 12 abducted. It was also reported that some villages were looted and burnt.

21. Furthermore, the Special Rapporteur is convinced that the oil issue, in western Upper Nile, lies at the heart of the conflict and believes that it is not fair for the civilian population to be once again the most affected target in this scenario. Oil exploitation has resulted in the exacerbation of the war. The Special Rapporteur believes that, as idealistic as this may seem in the present circumstances, any solution will have to be based on a wide consensus of all affected parties. He also believes that, as a matter of urgency, steps should be taken to address the current situation. In this connection, he recommends that unhindered humanitarian access be granted to the areas of concern. He also recommends that all efforts be made to facilitate the return of displaced people to their areas of origin. He further recommends that the use of oil facilities for military purposes come to an end.

22. During the mission, the Special Rapporteur received expressions of concern at the deterioration of the human rights situation in the Nuba Mountains as a result of action by the two parties.

23. The Special Rapporteur equally condemns SPLM/A practices in violation of human rights and humanitarian law, such as the use of civilian installations for military purposes, recruitment of child soldiers, planting of mines, food diversion and, particularly, expresses concern at the situation in Eastern Equatoria. Lastly, he expresses serious concern at the attempt by the Sudan People's Liberation Movement/Army (SPLM/A) to politicize humanitarian aid by imposing restrictions on its delivery.

24. On the basis of credible reports, the Special Rapporteur concludes that the SPLM/A is behaving as an occupying army in Eastern Equatoria and is therefore incapable of generating any trust in the local Didinga population. More specifically, it was reported that people are often mistreated and sometimes feel as if they were in a foreign country. Several incidents reported to the Special Rapporteur during his mission exacerbated the troubled relations between the Didinga and the SPLM/A to the point of no return.

25. Several allegations were received to the effect that the SPLM/A is responsible for forcefully recruiting children. More specifically, it was reported that in December 1999, in the villages of Lorus and Nimule, Eastern Equatoria, the SPLM/A forcefully took a number of children to train them as soldiers. It was reported that up to 27 schools have been closed in the region and children therefore lack any kind of education. The Special Rapporteur raised the issue of forceful recruitment of children with the SPLM/A representatives with whom he met in Nairobi. The SPLM/A representatives denied all allegations, defining the SPLM/A as a voluntary army, open to all who decided to join it, and claiming that in fact efforts are currently in place to demobilize any children under the age of 16 and put them in school.

26. The Special Rapporteur assesses that there are some positive developments that need to be highlighted, commended and supported by the international community. More specifically, he was particularly encouraged to learn of the conclusion of the tripartite Agreement on the Implementation of Principles Governing the Protection and Provision of Humanitarian Assistance to the War Affected Civilian Population, signed by the Government of the Sudan, the SPLM/A and the United Nations-Operation Lifeline Sudan, by which the parties reached consensus on some human rights and humanitarian issues.

27. The Special Rapporteur was pleased to note the importance given by both parties to active participation in International Committee of the Red Cross (ICRC) training courses on humanitarian law and was particularly impressed at the tireless humanitarian efforts of international and domestic NGOs under the OLS umbrella. In this connection, he acknowledges the improvement in the attitude of the humanitarian agencies of both parties to humanitarian assistance, in spite of the aforementioned shortcomings.

C. The creation of CEAWC

28. The Special Rapporteur continues to believe, as expressed in his interim report to the General Assembly, that the establishment of CEAWC is a concrete indication of the political will of the Government of the Sudan to deal with abductions. He welcomes the initiative and will closely monitor the situation in order to report thereon.

29. The Special Rapporteur feels strongly that the solution of this issue must include, on the one hand, the retrieval of the abductees followed by their reunification with their families and, on the other hand, energetic measures to end and prevent unlawful practices, such as raids by armed militias, perpetrated against women and children.

30. The Special Rapporteur was particularly impressed by the significant dialogue currently taking place between the Dinka and Baggaara tribes, despite the complexity of the problems that remain to be solved, and by the courage shown by the CEAWC authorities in discharging the fundamental task of helping the victims of the heinous practice of abduction and forced labour, which is an indication of the willingness of the Government to tackle this issue.

31. The Special Rapporteur was highly impressed with the quality of the top CEAWC authorities, particularly Dr. Mufti and the Chairman of the Dinka Committee, Mr. James Aguer. In this connection, the Special Rapporteur considers that the work of the Chairman of the Dinka Committee should continue with full support from the Government and regrets information received that Mr. Aguer has suffered several abuses in the discharge of his mandate. Likewise, the Special Rapporteur is seriously concerned about threats against UNICEF personnel and activities.

32. The Special Rapporteur believes that the large-scale practice of abduction and forced labour can no longer be explained exclusively in terms of conflict over resources, water and pastures. He considers that this heinous practice is linked with war strategies.

33. The Special Rapporteur feels that the work of CEAWC would benefit from a clear stand by government officials, openly supporting it, which has not been the case so far. A stronger commitment by the political leadership would generate a sense of urgency and would contribute to creating a conducive environment, which would make the work of CEAWC more meaningful and effective. In this connection, he further encourages the media to sensitize the public, thus putting further pressure on those responsible for it.

D. The peace process and human rights

34. The Special Rapporteur wishes to highlight once again the importance of the efforts to promote peace in the Sudan. He reiterates, however, that human rights must be part of that agenda and not be confined to the post-war scenario. In this connection, the Special Rapporteur wishes to recall that the Declaration of Principles (DOP) agreed to by the parties also refers to human rights as part of the process. In addition, the Special Rapporteur learned with satisfaction that in a recent draft paper circulated during the last Intergovernmental Authority on Development (IGAD) talks, clear reference is made to point 3.6 of the DOP whereby the parties agree that human rights as internationally recognized shall form part and parcel of this arrangement.

35. Finally, the Special Rapporteur reiterates his firm belief in the great importance and transcendental value of a "people to people" approach to pave the way to peace and help to solve inter-tribal problems.

E. International cooperation in the field of human rights

36. The Special Rapporteur believes that cooperation in the field of human rights implies that the competent authorities should determine the areas which require improvement and search for remedies. In this connection, he expresses concern at the practice of concealment and denial of human rights which both parties to the conflict commonly tend to resort to and which opens the way to a culture of impunity.

37. It is against this background that the Special Rapporteur reiterates his recommendation of the usefulness of promoting an agreement between the Government of the Sudan and the Office of the High Commissioner for Human Rights and expresses satisfaction at the outcome of the OHCHR Needs Assessment Mission, which was undertaken in September 1999. While he was pleased to learn of the positive response of the Government of the Sudan, the Special Rapporteur believes that the modalities proposed by the Government in terms of staffing are not adequate to reach the level of effective achievement of the goals of the Agreement. He hopes that negotiations will continue to this end, and that ways and means to cooperate fully will be agreed upon rapidly.

38. Finally, the Special Rapporteur would like to thank OHCHR for the support provided to him in the discharge of his mandate.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PARTY OF THE WORLD

Report of the Special Rapporteur on the situation of Human Rights in Iraq, Mr. Andreas Mavrommatis

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Introduction

1 Following the resignation of Mr. Max van der Stoel, the Chairperson of the Commission on Human Rights, after consultations with members of the Bureau of the fifty-fifth session of the Commission, appointed Mr. Andreas Mavrommatis (Cyprus) to the post of Special Rapporteur on the situation of human rights in Iraq. Mr. Mavrommatis accepted the appointment on 22 December 1999 and took up his functions upon arrival in Geneva in mid-January 2000.

2 The Special Rapporteur wishes from the outset to express his appreciation to his predecessor, Mr. Max van der Stoel, for the considerable work performed in the fulfilment of the mandate, and for the valuable advice and opportunity to exchange views on how to approach the difficult task entrusted to him.

3 Although in paragraph 4 (a) of its resolution 1999/14 the Commission requested the Special Rapporteur to submit a report on the situation of human rights in Iraq to the present session of the Commission, the lateness of his appointment and the fact that he had very little time to do anything beyond initial briefings, made a proper assessment of the situation of human rights in Iraq and the preparation of a detailed report impossible. The Special Rapporteur decided instead to present a brief summary of his activities and initial observations. Even then, in view of the deadline for the submission of the present document, the Special Rapporteur was not in a position to review and analyse the information received during his recent missions to Geneva and New York in order to ensure that issues brought to his attention on those occasions were properly reflected herein. Members of the Commission may wish to consult the last report of the former Special Rapporteur (A/54/466), covering the period February to October 1999, which he submitted to the General Assembly.

4 The Special Rapporteur set the following priorities in discharging his functions:

(a) To be fully apprised of all previous activities carried out in connection with his mandate and study the relevant documentation;

(b) To consult with officials of the Office of the High Commissioner for Human Rights and other agencies on matters connected with his mandate and ensure the highest degree of cooperation and coordination;

(c) To embark upon a dialogue with the Government of Iraq on the question of violations of human rights;

(d) To be fully briefed on the political, humanitarian and human rights aspects of the situation in Iraq, including the sanctions regime imposed by the Security Council;

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

5 The Special Rapporteur travelled on mission to Geneva from 10 to 13 January 2000 for the first round of consultations with the Chairperson of the Commission on Human Rights, the

United Nations High Commissioner for Human Rights and officials of her Office. The Special Rapporteur also had meetings with officials of the International Committee of the Red Cross and of the Office of the United Nations High Commissioner for Refugees, at which he discussed issues connected with his mandate as well as matters of cooperation and coordination.

6. In Geneva, the Special Rapporteur had a meeting with the Deputy Permanent Representative, in the absence of the Permanent Representative, of Iraq, which was characterized by the Permanent Mission of Iraq as informal. During the meeting it was agreed that there should be a formal meeting with the Ambassador upon his return, during which, *inter alia*, the question of the possibility of a visit would be discussed.

7. The Special Rapporteur visited United Nations Headquarters from 28 February to 3 March 2000 in order to be brought up to date on the political, humanitarian and human rights aspects of the situation in Iraq. In New York he met with the Secretary-General and other members of the Secretariat, who briefed him on recent developments regarding the situation in Iraq, with particular reference to the issue of economic sanctions and Security Council resolution 1284 (1999) of 17 December 1999, as well as prospects for its successful implementation. The Special Rapporteur also had a meeting with the Director of the United Nations Iraq Programme, who spoke about the programme and the difficulties encountered in its implementation, as well as hopeful signs that had been manifested in the wake of resolution 1284. The Special Rapporteur also met with the Humanitarian Coordinator for Iraq who briefed him on matters connected with the implementation of the "oil-for-food" programme within Iraq.

8. An important round of meetings was held with permanent representatives, ambassadors and Iraq desk officers of permanent missions of members of the Security Council who spoke about the political as well as the humanitarian situation in Iraq, giving their views on the present situation as well as on expected developments.

9. Finally, the Special Rapporteur had meetings with representatives of international non-governmental organizations who spoke about both alleged violations of human rights and the humanitarian issue.

10. On his way back from New York, the Special Rapporteur met with the Permanent Representative of Iraq to the United Nations Office at Geneva and formally requested the beginning of a dialogue on the situation of human rights in Iraq and on measures to improve it. The Special Rapporteur also made a formal request to be invited, as soon as possible, to visit the country in order that he might study, *in situ*, the human rights situation. The Permanent Representative, whilst welcoming the Special Rapporteur's appointment and expressing readiness with regard to future dialogue, said that he would refer the request for an official visit to the Iraqi authorities.

11. During his stopover in Geneva, the Special Rapporteur also had meetings with the Permanent Representative of Kuwait, and discussed with him mainly the question of missing persons. The Permanent Representative invited the Special Rapporteur to visit Kuwait and meet officials, relatives of missing persons and others.

12. During his first few months in office the Special Rapporteur continued receiving communications from individuals and national and international non-governmental organizations on human rights violations by the Government of Iraq. The Special Rapporteur is working closely with the Office of the High Commissioner for Human Rights (OHCHR) to ensure that adequate attention and, when appropriate, follow-up are given to such communications.

13. The communications, whilst referring to violations of human rights, also describe the bleak humanitarian situation and the plight of innocent people in Iraq.

II. PRELIMINARY CONSIDERATIONS

14. The Special Rapporteur has prepared an intensive programme of engagements in order to discharge his mandate and carry out an in-depth assessment of the situation of human rights in Iraq, in accordance with the terms of Commission resolution 1991/74. He intends to submit an interim report to the General Assembly and a full report to the Commission at its next session. In particular, the Special Rapporteur is in the process of deepening analysis in three main areas which will also be the subject of his future reports:

(a) In-depth examination and verification of all allegations of violations of human rights by the Government of Iraq, in particular violations of the rights to life and physical integrity, and freedom from discrimination, arbitrary arrest and detention, and torture and other cruel and inhumane treatment. The Special Rapporteur counts on the assistance and cooperation of the Government of Iraq, other Governments and governmental and non-governmental organizations, as well as individuals, to assist him in verifying, in the coming months, the truthfulness of such allegations. To that effect a visit to Iraq and certain other neighbouring countries in the near future is considered to be of crucial importance;

(b) The Special Rapporteur is of the opinion that in examining allegations of violations of, in particular, economic, social and cultural rights such as the rights to food, housing, medical care, social services and education, regard should be given to all situations and actions that are directly or indirectly connected with such violations, including the effects of the economic sanctions on the enjoyment of these rights and the responsibility of the Government of Iraq in ensuring compliance with the relevant provisions to the International Covenant on Economic, Social and Cultural Rights. The conclusion the Special Rapporteur drew from all his contacts was that there exists in Iraq a grave humanitarian situation, given the country's shattered infrastructure and economy. The members of the Security Council are fully aware of that situation and have had it under review for a long time. As a result of this preoccupation, lengthy discussions were held that led, *inter alia*, to the adoption of Security Council resolution 1284.

That resolution seems to be helping to ameliorate the humanitarian situation to a great extent, mainly because it lifts the ceilings on exports of Iraqi oil and streamlines the procedure for approval of contracts for the purchase of certain items. It also appears that it would certainly further improve matters if more attention were paid to improving the country's infrastructure and accelerating the process of approval of contracts for the purchase of relevant supplies.

(c) The Special Rapporteur counts on the support of OHCHR in order to carry out his functions and to provide the necessary advice and support in following up his recommendations to improve the human rights situation in the country. Finally, the Special Rapporteur intends to hold intensive discussions with the High Commissioner for Human Rights so that they can have an integrated approach on issues connected to their respective mandates.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in Myanmar

Report of the Special Rapporteur, Mr. Rajsoomer Lallah, submitted in accordance with Commission on Human Rights resolution 1999/17

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Executive summary

Political repression and the lack of real engagement in a political dialogue with opposition groups continue to be the main sources of measures adversely affecting democratic governance in Myanmar. The policy of large-scale displacement of certain ethnic groups, the continued practice of forced labour for military camp work and portering, and related human rights violations remain the main cause of refugee movements.

The Permanent Representative of Myanmar to the United Nations indicated at the General Assembly last November that the authorities in Myanmar were giving serious consideration to a visit by the Special Rapporteur. To date no concrete steps have materialized.

Myanmar's ethnic and religious minorities, such as the Karen, Karenni, Shan and Rohingyas, continue to suffer severe abuses, including arbitrary arrest, killings, forced labour in the army and trafficking of women.

The administration of justice continues to operate under the effective control of a military regime where the exercise of the basic freedoms of expression, association, assembly and movement are criminalized under the law itself. Vaguely worded laws, such as the 1950 Emergency Provisions Act and the 1975 State Protection Law, continue to be used to arrest and sentence persons for their peaceful political activities. It is estimated that in 1998 there were approximately 800 political prisoners in Myanmar.

According to reliable studies of the economic and social situation in Myanmar, the country is riddled with abject poverty. Child mortality rates are relatively high for a country with Myanmar's level of gross domestic product per capita. Poverty rates are approximately the same in urban and rural areas, but most of the poor (71 per cent) live in rural areas. Flawed policies and inefficient mechanisms for rice procurement are largely responsible for the high level of malnutrition and infant and maternal mortality. Government budgetary priorities that in effect limit expenditure on social services have exacerbated the current situation.

The adoption by the Government of Myanmar of military solutions to political problems, while seeking military and financial inputs from outside the country to impose its order on the people, continues to generate a pattern of gross and systematic human rights violations.

Unless the regime moves away from military solutions and engages instead in an all-inclusive political dialogue with the political opposition, including representatives of the ethnic groups, and addresses the concerns of the international community, the pattern of human rights violations which has characterized the last decade in Myanmar will continue and no significant progress can be expected towards realizing the country's economic potential and achieving the levels of human welfare and prosperity enjoyed by the rest of South-East Asia.

Introduction

1. The mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar has been described in each of the Special Rapporteur's previous reports to the General Assembly (annexes to documents A/47/651, A/48/578, A/49/594 and Add.1, A/50/568, A/51/466, A/52/484, A/53/364 and A/54/440) and to the Commission on Human Rights (E/CN.4/1993/37, E/CN.4/1994/57, E/CN.4/1995/65 and Corr.1, E/CN.4/1996/65, E/CN.4/1997/64, E/CN.4/1998 and E/CN.4/1999/35). The mandate was extended for a further year by resolution 1999/17 of the Commission on Human Rights, which requested the Special Rapporteur to submit an interim report to the General Assembly at its fifty-fourth session and to report to the Commission at its fifty-sixth session, keeping a gender perspective in mind when seeking and analysing information (para. 8).

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

2. On 4 October 1999, the Special Rapporteur presented his interim report on the situation of human rights in Myanmar to the fifty-fourth session of the General Assembly (A/54/440) and made an introductory statement. While in New York, he had discussions with representatives of various Governments and non-governmental organizations as well as individuals who provided him with information on the situation of human rights in Myanmar.

3. It should be recalled that, since his appointment in June 1996, the Special Rapporteur has yet to be allowed by the Government of Myanmar to examine the situation in situ and to meet with government officials and other persons relevant to the effective exercise of his mandate.

4. It should be noted that, in response to the submission of his last interim report to the General Assembly, the Permanent Representative of the Union of Myanmar to the United Nations reiterated his Government's rejection of the appointment of the Special Rapporteur, on the ground that it constituted an interference in the internal affairs of Myanmar. He expressed, as on previous occasions, his disagreement with the contents of the Special Rapporteur's report. He stated however, that his Government did not rule out a visit by the Special Rapporteur. Similar indications had, year after year, been given in the General Assembly and the Commission by the Permanent Representative of Myanmar. To date no positive steps have been taken to allow such a visit. The Special Rapporteur reiterates his regret that in the nearly four years since his appointment, the Government of Myanmar has not responded to the repeated calls of the General Assembly and the Commission on Human Rights for cooperation with the Special Rapporteur and to authorize his visit. In spite of the lack of cooperation from the authorities in Myanmar, and as in previous years, the Special Rapporteur has received considerable assistance and information from governmental, intergovernmental and non-governmental sources. He has also received relevant information from individuals about the human rights situation in Myanmar.

5. The Special Rapporteur has proposed to visit two neighbouring countries in order to conduct interviews of refugees and other displaced persons from Myanmar in those countries. The Special Rapporteur expects that the mission could take place in the course of this year.

6. The present report is based upon information received by the Special Rapporteur up to 15 December 1999 and is to be read in conjunction with his interim report to the General Assembly.

II. THE EXERCISE OF CIVIL AND POLITICAL RIGHTS

A. Measures adversely affecting democratic governance

7. In his report to the fifty-fourth session of the General Assembly (A/54/440), the Special Rapporteur indicated that opposition political parties continued to be subject to intense and constant monitoring by the regime and to severe restrictions on their activities, their members have been prohibited from leaving their localities and subjected to intimidation, personal harassment and harassment of their families, and arrest and imprisonment, particularly in the case of members of the National League for Democracy (NLD), the object being to procure the resignation of those members.

8. The Special Rapporteur continues to receive reports indicating that the campaign of harassment and intimidation continues to be conducted against high-ranking members of NLD in general and the rank and file membership in particular for the purpose of procuring their resignations. It would appear that Aung San Suu Kyi and other NLD leaders are able to meet but always subject to restrictions and close monitoring. Public meetings are not allowed. As a result of forced resignations, particularly among members of executive committees, a number of NLD branch offices have closed down or were forced to close. By March 1999 there had been over 50 branch closures. Moreover, a number of sources reported in September 1999 that many members of the NLD, including MPs-elect, and other activists (in the hundreds) were still in prison or were under arrest or some form of detention while others were subject to restrictions on their freedom of assembly and movement and to systematic monitoring.

9. Restrictions imposed by the regime on ethnic opposition parties are reported to continue unabated. For instance, two senior members, Naing Tun Thein (82) of the Mon National Democratic Front and Kyin Shin Htan of the Zomi National Congress, two of the ethnic opposition parties in Myanmar, were arrested shortly after they met with the Special Envoy of the United Nations Secretary-General, Mr. Alvaro de Soto, during his visit to Myanmar from 14 to 18 October 1999. No official reason has been given for their detention. Another ethnic leader, Doo-wah U Zaw Aung, of Myanmar's Kachin nationality and the MP-elect for the township of Waingmaw, disappeared at the beginning of August. It is reported that his fate or whereabouts remain undetermined.

10. Reports indicate that three ethnic leaders were arrested in September 1998 for supporting the Committee Representing the People's Parliament formed by NLD to speak on behalf of Myanmar's elected parliamentarians. Two of them were subsequently released in order to receive medical treatment, but the third, Saw Mra Aung (82) from the Arakan League for Democracy, has remained under arrest for more than a year.

11. According to news bulletins received by the Special Rapporteur, the authorities in Kachin State ordered the branch of the Shan National League for Democracy (SNLD) in Waingmaw township to close down in November. No official reasons were given. It is further reported

that in August two MPs-elect from Labutta township, U Kyi Win, a Supreme Court lawyer, and Aye Kyu, along with two other township officers of the NLD, were sentenced to two years in prison in Myaung Mya for their efforts to secure the release of four other township branch members. The four were sentenced to five years' imprisonment.

12. Regular "resignations" of NLD members continue to be announced in The New Light of Myanmar, Myanmar TV and other media channels, all controlled by the regime, in furtherance of its systematic policy of intimidation and repression directed against NLD and its supporters. According to sources inside Myanmar, about 48,000 NLD members have been reported as resigning since the campaign began a year ago. A large majority of these resignations are reported to have been registered in Irrawaddy, Mandalay and Pegu Divisions.

13. The Special Rapporteur has also been apprised of daily features published in the Government-controlled press belittling and vilifying the leadership of NLD, in particular Aung San Suu Kyi, inciting the public to treat them as enemies and to destroy them, presenting them as stooges of foreign Powers, jeopardizing stability and progress, and as being destructive agents.

14. The Special Rapporteur wishes to recall the pledge made by the authorities of Myanmar since 1990 after the general elections, in particular in Declaration No. 1/90 (see A/51/466, chap. III.C), and similar subsequent assurances often repeated in international forums. With a view to redeeming that pledge, to achieving national reconciliation and to enabling Myanmar to fulfil its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights, the authorities should respond to the calls of the General Assembly and the Commission, put an end to the hostile policy they have carried on against their own people and engage in a substantive dialogue with the political leaders in the opposition, including Aung San Suu Kyi, and representatives of the ethnic groups.

B. Extrajudicial, summary or arbitrary executions

15. The Special Rapporteur on extrajudicial, summary or arbitrary executions has, during the last reporting period (November 1998-October 1999), transmitted three communications to the Government of Myanmar regarding 11 allegations of violations of the right to life of individuals, most of whom were reportedly porters killed by troops of the State Peace and Development Council (SPDC).

16. More specifically, one of the communications concerned a group of women who were allegedly raped and shot by an SPDC commander near the villages of Wan Wawn and Wan Ek, Nawng Kaw Tract, Nam-Zarng Township, in January 1999. Further, it is also reported that when a civilian porter who witnessed the scene tried to intervene, the commander shot him as well. Another communication concerned a number of porters who were allegedly executed by SPDC troops on 4 December 1998 in Kae-See Township. In the third communication, information was transmitted to the Government regarding allegations of two executions on 5 December 1998 of porters who were kicked and beaten, and finally shot, by SPDC troops because they became too weak from exhaustion and lack of food over a period of days to carry equipment.

C. Freedom of association

17. On 15 November 1999, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a communication to the Government of Myanmar on behalf of nine persons, two of whom are NLD MPs-elect, namely, Saung Win Latt, U Hla Pe, U Zeya, U Moe Thu, U Win Tin, U Myo Mynt Nyen, U Sein Hlaing and U Aung Tin and U Boe Thin, requesting information about the legal basis of the charges and offences of which they were convicted.

D. The administration of justice

18. According to a recent study conducted by the Centre for the Independence of Judges and Lawyers (CIJL) of the International Commission of Jurists (ICJ) and published in its annual report, Attacks on Justice, the rule of law in Myanmar has malfunctioned since the military Government began its rule in 1988, as the Special Rapporteur and his predecessor have found in their reports over the past several years.

19. The study recalls that in September 1988, Law No. 2/88, the Judiciary Law, was enacted by the regime. Under that law, a Supreme Court was established, composed of a Chief Justice and "not more than five Judges". Lower courts, the state or division and township courts, are established by the Supreme Court. Military tribunals, established in 1989 for the purpose of trying martial-law offenders under special summary procedures, were abolished in September 1992.

20. The military regime appoints the Judges of the Supreme Court. The Supreme Court selects judges for the lower courts, but requires the approval of the regime. The Supreme Court is further in charge of supervising the lower courts. The Judiciary Law does not contain any provisions on the security of tenure of judges and their protection from arbitrary removal, thus leaving such issues entirely in the hands of the military regime and, what is worse, without any guarantees provided by law by which the military regime is bound.

21. In this regard, according to the CIJL study, five Judges of the Supreme Court, namely U Kyaw Win, U Aung Myin, U Than Pe, U Tin Ohn and U Tin Htut Naing, were "permitted" by the regime to retire by Order No. 5/98. No reasons were given. It is widely believed that, because cases submitted by NLD were pending and the regime was uncertain as to how those Judges would decide the outcome, they were forced to retire.

22. The administration of justice is greatly marked by constraints which are inconsistent with judicial independence and characteristic of a military dictatorship. According to section 2 (a) of Law No. 2/88, justice is required to be administered "independently, according to law". In reality, however, the judiciary is far from independent. This situation results from the suspension of the Constitution and the numerous decrees made by the regime the object of which is to arrogate to itself complete control over the whole political life of the nation and to restrict all civil freedoms that are likely to interfere with that objective.

23. In addition to the military Government's unrestricted powers in the appointment of judges, the courts are powerless to protect the rights of victims of oppression. This is so because

a great number of decrees have been promulgated by the regime for the purpose of repressing political activity and freedom of thought, expression, association and movement, among others. Moreover, emergency laws are still resorted to. These, in Myanmar, are similar to those devised in colonial times, long before the adoption of the Universal Declaration and the human rights treaties which have since followed. The courts have no jurisdiction to challenge or to discard this repressive legal arsenal. For this reason, the courts have become a mere instrument to provide formal and apparent, but clearly not substantive, legitimacy to the regime's systematic repression of the civil and political rights which constitute the very basis of the rule of law, democracy and democratic governance.

24. Basic guarantees of due process and judicial control over detention do not in practice exist, even in cases involving violations of the provisions of the law that criminalize political activity and the exercise of civil rights for that purpose. For example, without the permission of the intelligence organs, judges cannot even let the family and counsel of the accused know what sentence has been passed. In many cases, the accused is kept in ignorance of the section of law under which he is charged. There have been reported instances where Military Intelligence has passed sentences orally at the time of arrest, before any trial had taken place. More often than not trials are held in camera.

25. According to the CIJL study referred to above, since the assumption of power by the regime in 1988, the freedom of individual lawyers to exercise their profession and defend political opponents of the regime has in practice been severely suppressed. The Lawyers' Associations, the voice of the profession, have been silenced. The Bar Council has not been independent since 1989, and is instead supervised by the Attorney-General and is staffed by government officials.

26. Many of the decrees promulgated by the State Law and Order Council (SLORC), as it then was, remain in force today, including Order No. 2/88 which prohibits public gatherings of more than five people and No. 8/88 which, in its effects, prohibits debate and criticism.

27. In cases other than those involving political activity, some basic due process rights, including the right to a public trial and to be represented by a defence attorney, are generally respected. Defence attorneys are permitted to call and cross-examine witnesses, but their primary role would, in practice, be to bargain with the judge to obtain the least severe sentence possible for their clients.

28. During the past few years many lawyers have had their licences withdrawn for involvement, alleged or real, in politics. Lawyers who may have been arrested, imprisoned or released prior to 1997 reportedly remain unable to practise their profession. For example, according to CIJL, Myint Aung (lawyer, licence No. 3277) was arrested and charged under section 2 (1) (a) of the Arms Act. His trial was heard on 16 and 17 May 1990 at Yangon Division Joint Magistrates Court No. 12 and he was sentenced to two years' imprisonment with hard labour. He was prevented from practising law as of 4 November 1993, and his licence to practise was withdrawn. A similar fate befell U Toe Aung (lawyer, licence No. 1049). He was charged under the notorious article 5 (j) of the Emergency Act 1950 and sentenced to five years' imprisonment on 7 February 1991. His licence too was withdrawn.

29. CIJL reports that some 50 lawyers are unable to practise their profession owing to similar treatment by the regime. It also reported that lawyers are often reluctant to take on cases involving human rights abuses by Military Intelligence (MI) Officers or soldiers for fear of arrest, retaliation or harassment by the authorities and the removal of their right to practise.

III. THE EXERCISE OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Background

30. The exercise of economic, social and cultural rights has been greatly marked by the ethos of militarism inherent in the very nature of a military regime. The regime has constituted for itself a highly centralized system of decision-making and enforced execution with no representative or public participation in the decision making process, whether with regard to policy or implementation. The only organization which participates in implementation is the Union Solidarity and Development Association (USDA) which is, however, under the complete direction and control of the military and for the purposes for which the military alone decides to use it.

31. In particular, and above all else, budgetary allocations are largely determined by military considerations and objectives. Thus, high and growing military spending contrasts with diminishing allocations to basic social services such as health, education and essential services, all necessary not only to translate growth, however modest, into human development and welfare but also to sustain growth.

B. Poverty

32. According to a recent economic and social assessment of Myanmar by the World Bank which is soon to be published, the country is "trapped in abject poverty despite its rich resources base. Although there has been notable moderate growth in the economy, the trickle-down effect of this growth did not reach the poor. The country's poverty and development indicators have lagged behind those of its neighbours". Flawed government policies are considered to be responsible for these outcomes.

33. The study adds, with regard to prospects for the future:

> "The recent slowdown in economic activity, the sharp worsening of foreign reserves and severe contraction of public expenditure on basic services, are inflicting further hardship on the poor. If the present policies are maintained, the people of Myanmar are unlikely to benefit substantially from a resumption of growth in the region ... Continuing lackluster economic performance that fails to improve living standards for the majority of the population could have devastating consequences for poverty, human development and social cohesion in Myanmar."

34. The World Bank study concludes that if Myanmar is to enjoy broad-based economic growth and create significant gains in human welfare on a par with those enjoyed in other countries in South-East Asia, it must consider a comprehensive review of the Government's role in the economy with a view to abandoning inefficient policies and reforming budgetary priorities

that squeeze expenditure on social services and infrastructure. If the country is to meet its full economic potential, it will be necessary both to establish domestic incentives and capable institutions, and to attract high-quality foreign investment. However, in order to receive the support of the international community, Myanmar must demonstrate a commitment to a broad-based policy that would not only address the economic and social issues elaborated in the Bank's report, but also the other concerns of the international community, in particular United Nations resolutions concerning political and civil rights.

35. Yet a different study of July 1998, provided to the Special Rapporteur, has concluded that data concerning the ability to lead a long healthy life, to be educated, and to have command over resources needed for a decent living indicate that Myanmar's 46 million people are generally poor. Further, the same study points to the low levels of achievement and slow progress in several critical areas of human development in Myanmar.

C. Food security

36. According to the World Bank study, "the level and depth of hardship among families in Myanmar is vividly reflected in high rates of malnutrition among pre-school-aged children. Even based on official statistics, far too many of Myanmar's children suffer from wasting and stunting. Moderate wasting affects almost 3 out of 10 children under 3 years of age, and 1 in 10 is severely malnourished. This has been described elsewhere as a 'silent emergency' in Myanmar. It has also been noted that deprivation on this scale indicates not only immediate need, but also adverse long-term repercussions for the health and intellectual development of the affected children".

37. In a recent report submitted to the Special Rapporteur, entitled "The People's Tribunal on Food Scarcity and Militarisation in Burma, October 1999"[1], the authors received testimonies from a large number of witnesses upon which the following conclusions were reached:

"1. There exists hunger and food scarcity in both the civil war and non-civil war areas of Myanmar, in particular the Karen, Karenni and Shan states, and the Delta region;

"2. The situation of hunger is spreading both geographically (to more regions of Myanmar) and demographically (affecting people from more varied walks of life);

"3. The causes of this situation are as follows:

"3.1 the destruction of staple crops which provide the local food supply;

"3.2 uncompensated conscription of people to work on State projects which do not leave enough time for them to work their fields;

[1] The report has been compiled by the Asian Human Rights Commission (AHRC) on the basis of the work of a tribunal established to assess evidence of human rights violations, particularly concerning the right to food, committed against the people of Myanmar by their Government.

"3.3 uncompensated conscription of people to do portering to areas far from their home villages, resulting in not being able to have time to grow food.

"3.4 forced relocation of people to areas where rice is difficult to grow, or to unfamiliar terrain making it difficult to find enough food.

"3.5 a quota system of the amount of rice to be supplied to the government substantially below market price, which must be supplied whether or not the harvest was adequate. This often leaves the people in debt and without any rice of their own to eat."

D. AIDS/HIV epidemic

38. The economic deterioration and the widespread human rights abuses that accompanied the rule of SLORC since 1988 and later, in 1997, SPDC, has had a dramatic effect on the health status of the people of Myanmar, a situation that is compounded by limited access to health care, particularly in the ethnic-minority regions. According to the World Bank study mentioned above, the last 10 years have been characterized by a sharp decline (80 per cent) in the usage of public hospitals and dispensaries. This is mainly due in principal to the low level of public spending on health (about 0.2 per cent). The widespread campaigns of forced relocation and wholesale transfers of communities such as the Karen and other minority groups, arbitrary arrests, slave labour coupled with the use of civilians as human minesweepers have further deteriorated the health situation in the country. Furthermore, about 1 million children are malnourished. The health of the people of Myanmar is further jeopardized by another threat: the increasing use of heroin and the alarming spread of HIV/AIDS. According to the World Bank report on Myanmar, "there are over 1 million HIV/AIDS cases".

39. It is further reported that the availability of heroin in Myanmar has encouraged its local cultivation, especially for the consumption of intravenous drug users. This is considered to have contributed to a marked increase in HIV infection throughout the region. While government statistical estimates are conservative, the United Nations Drug Control Programme and non-governmental organizations that work in the health sector estimate the number of addicts to be between 400,000 and 500,000. The Joint United Nations Programme on HIV/AIDS (UNAIDS) published estimates for the end of 1997 indicating the number of adults and children living with the HIV/AIDS virus to be around 440,000.

40. UNAIDS reports that the Government of Myanmar began HIV screening in 1985 of high-risk populations and blood donors and in 1989, the National AIDS Technical Committee was formed and later restructured, within the National Health Committee, to the multisectoral National AIDS Committee, with a vertical structure of divisional, district and township AIDS committees. Further, the National Health Committee has established guidelines for the Government's AIDS policy since then. Although the Government was reluctant to acknowledge the existence of an HIV/AIDS problem when it was first discovered in 1985, recent efforts show a change in attitude. However, resources made available to combat HIV/AIDS would appear to have been limited. The impact of these resources, meagre in comparison with the magnitude of the problem, is judged to have been limited by the Government's reluctance to permit

international non-governmental organizations to work in collaboration with community-based organizations. Permits to visit patients are difficult to obtain and access to high-risk groups and vulnerable groups is restricted.

41. Other significant factors impeding the measures taken to date to address the situation are said to be the lack of "social marketing" crucial in prevention efforts and the lack of behavioural research and assessment of prevention interventions. Equally important, little intervention has targeted women. There would also appear to be a lack of political will to tackle the HIV/AIDS problem as well as of resources at a level required for a successful HIV/AIDS care and prevention programme. Indeed, earlier this year UNAIDS warned of a growing epidemic in Myanmar and indicated that the regime was largely ignoring it. The Special Rapporteur shares this concern and urges the Government to recognize the problem and allocate sufficient resources to address the epidemic, which might quite easily affect neighbouring countries as well.

E. State of education

42. Universities are still closed. The authorities still fear that the demand of the students to have a say in structuring their own education might lead, as in 1988, to demands for the restoration of democracy. A whole generation, and the country itself, is being deprived of the knowledge, intellectual development and expertise which a country badly requires for its own development and human welfare.

43. Available data indicate a trend of declining expenditure on education by the Government, accounting for 1.1 per cent of GDP in 1995-1996, from 2.6 per cent in 1991-1992. The World Bank study referred to above corroborates these estimates, adding that it is impossible to provide good quality education services with the substantial erosion in education spending that has occurred over the past decade, and that "current Government spending in education as a share of national income is among the lowest in the world".

F. Forced Labour

44. In his report to the General Assembly (A/53/364), the Special Rapporteur provided details on the work of the Commission of Inquiry established by ILO to examine complaints lodged by the international Confederation of Free Trade Unions concerning the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), as well as the observations made in the Director-General's report (see A/54/440, paras. 21-30).

45. The Commission of Inquiry submitted its report in July 1998. Its findings were updated in subsequent reports of which the most recent was published in November 1999 for the 276th session of the ILO Governing Body. This report (document GB.276/6) presented comprehensive information on such measures as had been taken by the Government of Myanmar following the recommendations of the Commission of Inquiry and action taken in that regard by ILO. The report, inter alia, notes that in spite of the Commission's recommendations, the exaction of forced or compulsory labour by the authorities continued and the attention of the Government was drawn to the "relevant and consistent evidence of the persistence of forced labour" in Myanmar.

46. The evidence presented to the ILO Governing Body also shows that a considerable number of orders addressed to village heads were issued by military officers demanding the supply, without fail, of a number of "servants", "rotation servants" or "volunteer workers". Further, the report indicates that it is often specified that if the village head fails to comply, it would be entirely his or her responsibility and would be severely punished. While the focus of the report of the Commission of Inquiry was on forced labour, it highlighted the human rights violations suffered by the various ethnic groups in Myanmar in general. The human rights violations recorded include extrajudicial killings, rape, torture, ill-treatment and forced relocation.

47. With respect to the right to form and join trade unions, although Myanmar ratified the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) in 1955, the competent organ of ILO reports that workers and employers in Myanmar do not enjoy the right to join organizations of their own choosing. Furthermore, such organizations do not have the right to join federations and confederations or to affiliate with international organizations without impediments.

48. The issue of freedom of association and protection of the right to organize has again been discussed before the ILO Committee on the Application of Standards and the Committee of Experts. Both committees have deplored the absence of any progress towards the application of this fundamental Convention despite their repeated calls upon the Government for over a decade.

49. In the absence of genuine cooperation on the part of the Government and the total absence of progress in the application of this convention, the Committee on the Application of Standards has noted in a special paragraph of its report the continued failure of the Government of Myanmar to implement the Convention. Both the Committee on the Application of Standards and the Committee of Experts have strongly urged the Government of Myanmar to adopt, as a matter of urgency, the measures and mechanisms necessary to ensure, both in legislation and actual practice, the right of workers to establish, without previous authorization, and to join, subject only to the rules of the organizations concerned, first-level unions, federations and confederations of their own choosing for the furtherance and defence of their interests and to ensure the right of such organizations to affiliate with international organizations. The Government of Myanmar was invited by the Committee on the Applications of Standards to consider appropriate forms of ILO assistance to ensure that real progress was achieved by 2000 in the observance of its obligations under this fundamental convention.

V. THE GENDER PERSPECTIVE

A. Violence against women

50. In a previous report (E/CN.4/1999/35) the Special Rapporteur identified some of the problems that affect especially women and children in Myanmar and expressed his concern over the situation. Because rape and abuses are a regular feature in the mode of operation of the army in its campaign of incursions into the insurgency zones or else in the relocation sites, women and children continue to seek refuge within and outside the country. As those abuses continue to devastate the lives of many, they migrate. Many women are reported to fall through the safety net of refugee camps along the borders and into the hands of traffickers or become victims of

other forms of exploitation. Recent reports received by the Special Rapporteur indicate that such abuses and their consequences afflict women from several ethnic groups in general and the Rohingyas in particular.

51. As an ethnic group, it is said that the Rohingyas continue to suffer from the consequences of discrimination and gross abuses. They practice Islam. Many generations ago they migrated from East Bengal. They are denied citizenship, as explained in the Special Rapporteur's previous reports. While Rohingya women, men and children are all affected, the women are at particular risk of exploitation by traffickers luring them into becoming sex workers or to "sweatshops" working as underpaid labour.

52. The Special Rapporteur's attention has been drawn to the interview of a 19-year-old educated Rohingya woman who complained that "the major problem is rape. Rape is very common. We are not respected. That is why women are too afraid to leave their homes and even work outside. Often the military kidnap girls and take them to their camps. They are only released after being gang raped ... and assaulted."

53. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), six major circumstances constituted the "push factor" for the outflow some years ago of the Rohingyas from Myanmar: (1) the lack of citizenship and, by extension, nationality rights; (2) imposed restrictions on movement by the Myanmar authorities; (3) forced labour and portering for the army; (4) compulsory food donations, extortion and arbitrary taxation; (5) land confiscation or relocation; and (6) deliberate food (rice) shortages in combination with high prices. These factors, coupled with systematic human rights violations and imposed underdevelopment, led to the mass exodus of Rohingyas.

54. The General Assembly, in resolution 49/166, defined the practice of trafficking as the "illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations from the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption".

55. The Special Rapporteur on violence against women, its causes and consequences, transmitted to the Government of Myanmar last June information on alleged instances of violence against women and, in particular, alleged violations of the Convention on the Elimination of All Forms of Discrimination against Women, the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and Protocol II Additional to the Geneva Convention.

56. Examples of the cases that have been brought to the attention of the Government of Myanmar by the Special Rapporteur on violence against women, include the following: Naw May Oo Paw, who was forced to pay soldiers with rice and other food to avoid working as a porter; the wives of Bo Pha Palaw Pho and Bo Kyaw Hair, two Karen National Union leaders,

forced to carry extra-heavy loads for the army to the point of becoming unconscious; Nam Nu, who was allegedly kidnapped by MI officers and later beaten during interrogation; and Mugha Lwee Paw, who was allegedly arrested twice by soldiers and tortured.

B. Forced labour

57. There are many reports of forced labour of women. Women are said to be regularly taken from their homes and forced to undertake manual labour for the army. This labour involves cooking, cleaning, digging ditches, building bridges and roads, and carrying heavy loads. Moreover, they are allegedly beaten if they are unable to work or become tired; they are left behind in the jungle if they become unconscious from beatings or fatigue and are malnourished.

C. Arbitrary detention

58. Many reports indicate that police and intelligence officers use rape and sexual harassment in order to extract information from women in detention. Women are allegedly beaten, starved, and kept in solitary confinement while in detention.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

59. The Special Rapporteur, as in his previous reports to the General Assembly and the Commission on Human Rights, regrets that in spite of the Government's recent indications that "serious consideration" would be given to a visit by him, he has not so far been given permission to enter the country. He therefore has to rely on his personal interviews with refugees or other displaced persons as well as valuable information given to him by various organizations and institutions, both governmental and non-governmental, as well as by individual Governments.

60. A most welcome feature has been the resumption of cooperation by the Government in relation to the valuable work of the International Committee of the Red Cross (ICRC) which is now able to operate in accordance with its own procedures, as the Special Rapporteur has already been able to highlight in his last interim report to the General Assembly.

61. No concrete progress, most unfortunately, can be reported on the general situation of human rights in Myanmar. On the contrary, repression of political and civil rights continues in Myanmar, including summary or arbitrary executions, abuse of women and children by soldiers and the imposition of oppressive measures directed in particular at ethnic and religious minorities, including the continuing use of forced labour and relocation.

62. Persecution of the democratic opposition, in particular members of the NLD, continues as in previous years, including long prison sentences and the use of intimidation and harassment.

63. Well-documented reports and testimonies continue to be received by the Special Rapporteur which indicate that human rights violations continue to occur, as in the last decade.

These include extrajudicial, summary or arbitrary executions, torture, portering and forced labour, particularly in the context of the "development" programmes and of counter-insurgency operations in ethnic areas.

64. With regard to the exaction of forced or compulsory labour, the Special Rapporteur reiterates, as in his previous reports, that information he has received from refugees and displaced persons indicates that the practice of forced labour continues, although there is an official order directing that the offending provisions of the the Village Act and the Town Act should not be enforced. No law has been passed to make forced labour an offence and no prosecution against those exacting forced labour is possible. Impunity remains a serious problem.

B. Recommendations

65. As no concrete progress can be discerned from the totality of the information provided to the Special Rapporteur, he considers it necessary to reiterate the recommendations he made in paragraphs 80 to 83 of his last report to the Commission on Human Rights (E/CN.4/1999/35) and paragraphs 50 to 55 of his last interim report to the General Assembly (A/54/440).